IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

OMP (M) No. : 228 of 2024
Decided on : 26.10.2026

National Highways Authority of India .....Appellant

Versus

Chhota & Others .....Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?

For the applicant : Ms. Shreya Chauhan, Advocate.

For the respondent : Mr. Yuyutsu Singh Thakur, Advocate, for respondents No.2 and 3, as well as, for proposed LR 1(b).

Virender Singh, Judge (Oral)

OMP(M) Nos.497 & 498 of 2025 in OMP (M) No.228 of 2024

Applicant-National Highways Authority of India has preferred the accompanying appeal against the award dated 18.11.2023, passed by the Court of learned District Judge Bilaspur, District Bilaspur, H.P. in Case No.86 of 2019, titled as 'National Highways Authority of India versus Chhota & Others'.

2. Since, the appeal is barred by limitation, as such, OMP(M) No.228 of 2024, has been filed for condonation of delay.

3. Respondent No.1 is stated to have expired. It has fairly been conceded by learned counsel for the applicant that the application, under Order 22 Rule 3 of the CPC, moved for bringing on record the legal representatives of respondent No.1-Chhota is still lying undecided on the file of the learned Arbitrator, at page 102. Meaning thereby, the award has been passed against a dead person, whereas, before the learned District Judge, Bilaspur, the legal representatives of respondent-Chhota were not brought on record.

4. Since, the death had taken place, when the *lis* was pending, before the learned Arbitrator, as such, the award passed by the learned Arbitrator, for or against a dead person is nullity.

5. My this view is being guided by the decision of the Hon'ble Apex Court in ***'Gurnam Singh (Dead) through Legal Representatives & Ors. Vs. Gurbachan Kaur (Dead) by Legal Representatives' (2017) 13 SCC 414***. It is apt to reproduce para 21 of the judgment, as under:-

> *"It is a fundamental principle of law laid down by this Court in Kiran Singh's case (supra) that a*

> *decree passed by the Court, if it is a nullity, its validity can be questioned in any proceeding including in execution proceedings or even in collateral proceedings whenever such decree is sought to be enforced by the decree holder. The reason is that the defect of this nature affects the very authority of the Court in passing such decree and goes to the root of the case. This principle, in our considered opinion, squarely applies to this case because it is a settled principle of law that the decree passed by a Court for or against a dead person is a 'nullity'."*

6. In view of the above, this Court is left with no option, but, to set aside the award dated 18.09.2018, passed by the learned Arbitrator in Case No.74 of 2014, as well as, the award passed by the learned District Judge, Bilaspur on 18.11.2023, in Arbitration No.86 of 2019, titled as NHAI versus Chhota & Others, and to remand the matter back to the learned Arbitrator, for fresh disposal, in accordance with law, after bringing on record the legal representatives of respondent No.1-Chhota.

7. Since, the *lis* was pending from the year 2014, as such, it is expected from the learned Arbitrator, to decide the matter, on or before ***31st January, 2027***.

8. With these observations, the awards dated 18.09.2018 and 18.11.2023, passed by the learned Arbitrator, and learned District Judge, Bilaspur, respectively, are set aside.

9. Parties, through their counsel, are directed to appear, before the learned Arbitrator, on ***16th November, 2026***.

10. All pending miscellaneous applications shall also stand disposed of.

Record be sent back, immediately.

(**Virender Singh**)
Judge

October 26, 2026 (*ps*)